



City Attorney's Office · 555 Santa Clara Street · Vallejo · CA · 94590 · 707.648.4545

June 19, 2019

VIA EMAIL ONLY

John Glidden
Reporter, Vallejo Times Herald

Mr. Glidden,

With regard to your questions posed to me last Thursday, June 13th, 2019, please find some answers:

***What investigatory bias are you referring to?**

I am referring to the cognitive bias affecting investigators (including investigative reporters) that is generally described in the attached article.

With regard to 'attribution bias,' the following paragraph from the article seems relevant to certain headlines and narratives that exclude significant circumstances leading up to an unfavorable outcome:

Forensic Psychologist Dr. Jason Roach of the University of Huddersfield defines attribution bias as when an investigator "attributes different causal explanations to their own behavior than to the behavior of others, even though the behavior is the same" (McLean, & Roach, 2011). In practice, humans have a tendency to prejudge behavior as attributable more to the person than the circumstances that caused the behavior. Prejudgment of this type may be especially true when information is known concerning the person's previous trait based behaviors. For example, when a person is known to be uncoordinated trips and falls people will often attribute the cause to the person's lack of coordination rather than some other external factor (e.g.: unlevel ground) (McLean & Roach, 2011; Mellors, 2015).

With the above in mind, in recent media articles, it is reported that Mr. McCoy was "shot while asleep" which is factually untrue. Nevertheless, the below articles were obtained by doing a search for 'show while asleep' in the search engine. The titles of most articles favor something consistent with "McCoy was riddled with bullets after police shot him," "Vallejo Police fire 55 shots in 3.5 seconds" while other factors which supply important context to this incident have, in my opinion, been minimized or ignored (i.e., unconscious in a running vehicle, in a drive thru, with a stolen gun with an illegal extended magazine sitting in his lap and his foot on the brake and the vehicle in drive). To be clear, these facts alone are not a reason to shoot and kill a man. These facts are part of the context that led up to that unfortunate outcome and deserve equal attention from an investigative reporter perspective.

<https://www.theroot.com/bodycam-footage-shows-vallejo-police-shoot-willie-mccoy-1833688793>
<https://www.usatoday.com/story/news/nation/2019/03/31/willie-mccoy-california-police-bodycam-video-fatal-shooting/3326239002/>
<https://www.nytimes.com/2019/03/31/us/willie-mccoy-shooting-video.html>
<https://sfbayview.com/2019/04/video-confirms-vallejo-police-shot-and-killed-rapper-willie-mccoy-while-asleep-in-his-car/>
<https://www.nbcnews.com/news/us-news/california-rapper-sleeping-car-killed-police-who-opened-fire-n971241>
<https://www.independent.co.uk/news/world/americas/willie-mccoy-video-shooting-police-killed-vallejo-a8846956.html>

Additionally, the pervasive negative criticism regarding police decision making in this instance seems to point to “outcome bias.” Outcome bias occurs when, “people take outcomes into account in a way that is irrelevant to the true quality of the decision.”

The following blog quote evidences this type of bias, in my opinion:

<https://www.aclu.org/blog/criminal-law-reform/reforming-police-practices/willie-mccoy-should-be-alive-today>

“Willie McCoy’s murder is a textbook example of police killing someone as a predictable result of their risky tactics, which created the very danger they then used to justify the use of lethal force.”

Regarding the media reports that Mr. Blake is a police defense expert, implying that he is paid to form an opinion intended to benefit the city, this is incorrect and should be corrected. Mr. Blake is a court certified use of force expert who takes both plaintiff and defense cases based upon the merits of the case. A small amount of investigative reporting would find that Mr. Blake just recently testified in court supporting the prosecution of an officer for excessive force. <https://www.newsreview.com/chico/force-on-trial/content?oid=27303342>

***Do you believe news outlets are working together to ensure the city has to pay out more money in settlements? Was that the case for the Denise Huskins case, as well?**

I don’t think so, and have no facts showing that statement to be true. However, a high level of attention is being given to the quotes of certain plaintiffs’ lawyers, which have a vested interest in ensuring high dollar outcomes for their cases. As a defense attorney, I notice that there are no quotes from defense attorneys in recent stories. Also, I am particularly concerned that the high dollar outcomes Plaintiff lawyers seek are funded by tax payer funds, and every dollar that goes to pay for a settlement is a dollar less that is devoted to parks or pavement repair. In a recent story, one of the Plaintiff’s lawyers is quoted saying:

“...she’s set up shop in the city and will sue the city back into bankruptcy is she has to...”

So that is a cause for my concern.

Additionally, I notice that most stories make a point on relying on stale data (2011-2014) to paint a sensationalistic but skewed story. It is skewed because 2011-2012 marked a period of time with an

unusual amount of officer involved shootings. Additionally, 2011 was the year the city's bankruptcy order lifted, which resulted in lifting the litigation hold in all cases that had been stayed for years. So of course that meant that in 2011-2014 there would be a larger amount of settlements, including civil rights settlements. This is important because since 2014, Vallejo has averaged 1 OIF per year, down from 6 in 2012 and 3 in 2013. These are the Officer Involved Fatal Shooting Incidents since 2010.

2010 = 1 OIF
2011 = 1 OIF
2012 = 6 OIF
2013 = 3 OIF
2014 = 1 OIF
2015 = 1 OIF
2016 = 0 OIF
2017 = 2 OIF
2018 = 1 OIF
2019 = 1 OIF

Obviously, even one officer involved fatal shooting incident is too much. Neither the department nor the community consider this to be desirable from any perspective. A desirable outcome would be zero OIFs.

Nevertheless, recent negative stories go back to 2011 and ignore the more recent (and more favorable) statistics from 2014 onwards. The following stories rely on stale data:

<https://www.nbcbayarea.com/investigations/Vallejo-Police-Highest-Rate-of-Residents-Shot-Per-Capita-in-Northern-California---NBC-Bay-Area-Probes-Causes-510052301.html>

Lastly, recent stories have highlighted the disproportionate 'high' dollar amount paid out for civil rights cases.

These stem from the following quote, "*Of the nine agencies polled by the Express, only Vallejo police, a department with roughly 100 officers, paid more per officer in civil rights cases than Alameda County.*"

<https://www.eastbayexpress.com/oakland/alameda-county-leads-region-in-civil-rights-payouts/Content?oid=17991968>

The reporter who initially came up with this quote never spoke to us before publishing his story, and he has declined to explain which nine agencies he 'polled,' and what methodology he used. Recent email exchanges lead me to believe that his methodology was flawed because he seemed to be depending only on responses to public records act requests supplied by these agencies, which might or might not be complete, as the Cal. Gov. Code allows local agencies to destroy this type of record after two to five years, depending on the agency, and which records were gathered, so that the lack of response by an agency or failure to produce a record may be indicative that there is no settlement, but it may also be indicative that the settlement document was destroyed. Vallejo's recent efforts to address what we also believe to be too many lawsuits generally have led us to retain and examine records relating to these incidents, so that those portions which are public remain available to the public and have been disclosed pursuant to Public Records Act requests.

Also, I did learn that that reporter was including at least one recent high-profile and high-amount case which was fundamentally a defamation case (Huskins), not an excessive force case for Vallejo.

Lastly, his total figure involved taking the dollar amounts and dividing it by the number of officers, which for Vallejo is a relatively small number when taking into account workload and population. With 107 sworn officers, Vallejo has one of the smallest departments. With only 0.88 officer per 100 residents, as compared to Richmond, for instance, who has 1.60 officers per 100 residents or Oakland who has 1.75 officers per 100 residents.

From there, many reporters have picked up the story without checking whether it was current, or whether it was correct.

A follow up story seen here: <http://www.ktvu.com/news/vallejo-police-legal-payouts-total-7-million-as-father-files-claim-over-takedown-in-parking-lot> seems at first blush to be about legal payouts in excessive force cases, but includes the defamation claim and a traffic collision to inflate the total in the headline. Also, the story is devoid of a valid comparison to a statistically significant number of other cities.

To my knowledge, there is no current reputable study that compares Vallejo to other bay area jurisdictions or other California jurisdictions in terms of dollars paid in civil rights cases, certainly not in the last 5 years.

***What steps does the media need to take to stop the "investigatory bias?"**

To be aware of its existence, and to pursue unbiased fact-based investigations. To seek facts and identify reputable sources, allowing them sufficient time to answer and not just depend on previous reporting.

To ask questions in order to develop facts and cultivate respectful relationships rather than stating a position as fact in advance to actually obtaining the correct facts.

What are some examples of antagonism that you find in Mr. Glidden's articles?

I'd like to thank you, Mr. Glidden, for several months, going back to 2017 or so, of what I consider to be a professional relationship where you felt free to ask for information, and I felt free to give it, to the extent it was in my power, and not privileged. I appreciate your past efforts to maintain open lines of communication and to engage in conversation, even giving me the opportunity to correct errors whenever I made them.

Earlier this year you erroneously reported that Councilmember Verder-Aliga was termed out. I called you and told you that this was incorrect, encouraging you to correct your mistake. Rather than print a correction, you printed a new article including the following text:

"City Hall officials have determined that Councilwoman Rozzana Verder-Aliga is eligible to serve another term on the council, should she decide to seek re-election in 2020. It was originally thought Verder-Aliga's only move in 2020, if she wished to remain on the council, was to run for a four-year term as Vallejo mayor. However, Vallejo City Clerk Dawn Abrahamson, along with City Attorney Claudia Quintana have confirmed that isn't so after reviewing the City Charter."

The above suggested to several readers who approached me that the Clerk and I had made a mistake originally thinking that Councilmember Verder-Aliga *was* termed out, but somehow didn't bother to check.

As you know, that is not correct. What occurred is that you did not check with either me or the Clerk when you printed your initial erroneous story. Your later story glossed over that omission by deflecting onto the Clerk and me. I would consider this a small detail, except for the following:

- On June 10, 2019, you informally asked me for a copy of the Blake contract.
- On June 11, 2019, I checked with you to see if you had gotten the Blake contract, and you told me that you hadn't. So I sent it to you at 12:14 p.m.
- On June 11, 2019, you asked at 3:09 p.m. whether you could get copies of all materials Blake had relied on. At 3:34 p.m. I said, *"That's beyond what I can do for you informally today. Would you like to put your request into nextrequest or would you like for me to have one of my administrative staff do it?"* (As an aside, you might remember that June 11, 2019, was a council meeting day, and that I was trying to answer your questions and fulfill your requests while I also perform my function as City Attorney.) You said you would put it into 'nextrequest' yourself. However, this is what you wrote in an article reporting the above exchange:

"Those reports should be made available to the public now," Nold said. Quintana declined to immediately release those records, and directed this newspaper file a public records request with the city. Doing so would allow the city to avoid responding for up to 10 days, under the state's public access laws."

The above text leaves your readers with the impression not only that there is a right of immediate release, but that I am willfully delaying the release. In my opinion, that is an unfair light in which to paint our exchange.

On Thursday, June 13, 2019, at 8:44 a.m. you wrote me a series of questions, without conveying any sense of urgency or deadline, which I have (now) developed answers to, above. However, that same day, you wrote:



John Glidden 
@glid24

Follow



Still waiting to hear back from Vjo City Attorney C. Quintana re: her comments that "recent media stories may be reflective of a certain investigatory bias seeking to influence judicial and settlement outcomes for pending claimants or lawsuits" against the city of Vallejo.

5:48 PM - 13 Jun 2019

2 Likes



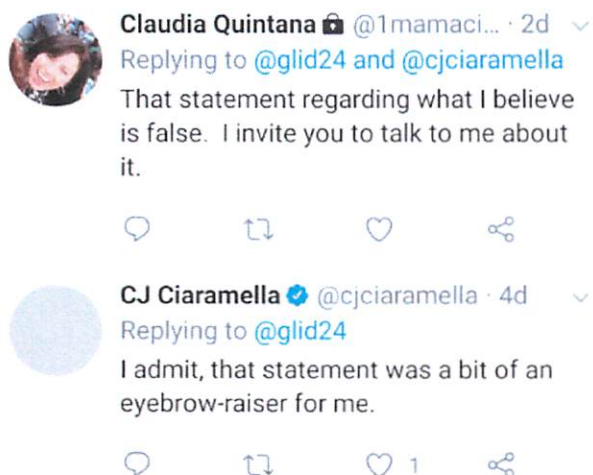
The above twitter comment is unfair and antagonistic because you had asked me that series of questions and not given me time to answer, and, again, because it unfairly conveys to your readers that I was delaying an answer.

That post was then followed up by the following post:



The above post is just plain untrue.

CJ Ciaramella did a very professional job of writing an article that contained very critical information, as well as complete and correct statements attributed to me in his piece for *Reason* magazine. However, nowhere in his article does that statement you attribute to me appear. Nor would it, because it is an opinion I don't hold, and a statement I never made. In fact, this is what CJ Ciaramella had to say about your twitter headline:



Mr. Glidden, please be assured that the furthest thing from my mind is to quell critical and relevant investigative reporting. My aim is for you to refrain from printing incorrect or misleading statements, especially about me.

Rather, I wish to encourage the presentation of all relevant facts.

I hope this clarifies my position. As indicated above, I welcome conversation and a professional exchange of information, as had been our historical practice. You have stated in a prior email that you are 'revoking' my off-the-record privileges. With that in mind, it is my hope that you see fit to use some of these answers to provide more current information and a more balanced approach to stories your readers may be interested in.

Thank you.

A handwritten signature in blue ink, appearing to read "C Quintana".

Claudia Quintana
City Attorney

cc: jbungart@timesheraldonline.com